FILED RICHARD J. BURDGE, JR. (Cal. Bar No. 089504) BOBBY A. GHAJAR (Cal. Bar No. 147485) MAGGIE M. GOODRICH (Cal. Bar No. 233683) SEP - 1 2005 2 **HOWREY LLP** 550 South Hope Street, Suite 1100 Los Angeles, CA 90071-2604 (213) 892-1800 3 RICHARD W. WIEKING ELERIC U.S. HISTRIET SHURT NORTHERN BISTRICT OF CALIFORNA (213) 892-2300 (FAX) 5 burdger@howrey.com Ghajarb@howrey.com Goodrichm@howrey.com 6 ATTORNEYS FOR DEFENDANT HARD ROCK HOTEL, INC. 8 9 UNITED STATES DISTRICT COURT 10 NORTHERN DISTRICT OF CALIFORNIA 11 12 MARCIA GAGLIARDI AND RYAN Case No. CV 05-01950-MHP 13 ROBLES, STIPULATION AND [PROPOSED] 14 ORDER TO ALLOW PLAINTIFF TO FILE Plaintiffs, AMENDED COMPLAINT AND TO TAKE 15 **DEFENDANT'S MOTION FOR** ٧. JUDGMENT ON THE PLEADINGS OFF 16 CALENDAR WITHOUT PREJUDICE HARD ROCK HOTEL, INC., A Nevada Corporation and Does 1-10, inclusive, 17 Judge: Honorable Marilyn Hall Patel Defendants. 18 19 20 21 22 23 24 25 26 27 28 STIPULATION AND (PROPOSED) ORDER TO FILE AMENDED COMPLAINT AND TAKE MOTION OFF CALENDAR HOWREY LLP CASE NO. CV 05-01950-MHP

Pursuant to Federal Rule of Civil Procedure 15(a), defendant Hard Rock Hotel, Inc. ("Hard t Rock" or "Defendant") and Plaintiffs Marcia Gagliardi and Ryan Robles ("Plaintiffs"), by and through 2 their respective counsel of record and subject to the approval of the Court, hereby enter into the 3 following Stipulation to Allow Plaintiffs to File an Amended Complaint and to Take Defendant's 4 Motion for Judgment on the Pleadings Off Calendar Without Prejudice: 5 WHEREAS, a hearing is currently set for September 12, 2005 at 2:00 p.m., upon Hard Rock's 6 Motion for Judgment on the Pleadings Pursuant to Fed. R. Civ. P. 12(c) and 12(h)(2) (the "Motion"); 7 WHEREAS, Plaintiffs filed their Opposition to the Motion and Counter-Motion for Leave to 8 Amend Complaint Pursuant to Fed. R. Civ. P. 15(a), attaching a draft of an amended complaint; 9 WHEREAS Defendant has agreed to allow Plaintiffs to file their amended complaint; 10 WHEREAS the Parties have agreed that the Motion will be taken off calendar without 11 prejudice to Hard Rock bringing a motion challenging the substance of the amended complaint or 12 striking Plaintiffs' jury demand at a later date; 13 It is therefore STIPULATED and AGREED that: 14 Plaintiffs may file and serve an amended complaint; 15 1. Defendant shall have twenty days from service of the amended complaint to move, 2. 16 answer or otherwise plead in response to the amended complaint, and 17 | 18 H_{I} 19 111 20 11, 21 11 22 23 H_{t} 24 -// 25 26 27 28 STIPULATION AND (PROPOSED) ORDER TO FILE AMENDED -1-COMPLAINT AND TAKE MOTION OFF CALENDAR HOWREY LLP CASE NO. CV 05-01950-MHP

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, in the second	3. Hard Rock's Motion for Judgment on the Pleadings Pursuant to Fed. R. Civ. P. 12(c)
2	and 32(h)(2) shall be taken off calendar without prejudice to filing a motion challenging the amended
3	complaint at a later date.
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5	Dated: August 24, 2005 HOWREY LLP RICHARD J. BURDGE, JR.
6	BOBBY A. GHAJAR MAGGIE M. GOODRICH
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8	Bobby A. Ghajar Bobby A. Ghajar
10	Attorneys for Defendant HARD ROCK HOTEL, INC.
! 1	Dated: August 25, 2005 FARALLON LAW GROUP LLP
12	Dated: August 2, 2005 FARALLON LAW GROUP LLP MANUELLA W. HANCOCK
13	By the
14	Manuella W. Hancock
15	Attorneys for Plaintiffs MARCIA GAGLIARDI and RYAN ROBLES
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17	PURSUANT TO STIPULATION, IT IS SO ORDERED.
18	Dated: 8/31/05
20	The Honorable Marily Hall Patel United States District Court Judge
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EYILP	STIPULATION AND [PROPOSED] ORDER TO FILE AMENDED -2- COMPLAINT AND TAKE MOTION OFF CALENDAR CASE NO. CV 05-01950-MHP